

# Senate File 2219 - Enrolled

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SENATE FILE 2219

## AN ACT

RELATING TO HUMAN TRAFFICKING AND RELATED OFFENSES, INCLUDING THE PROVISION OF LAW ENFORCEMENT TRAINING AND VICTIM ASSISTANCE PROGRAMS, PROVIDING PENALTIES, AND PROVIDING FOR A STUDY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 80B.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Training standards on the subject of human trafficking, to include curricula on cultural sensitivity and the means to deal effectively and appropriately with trafficking victims. Such training shall encourage law enforcement personnel to communicate in the language of the trafficking victims. The course of instruction and training standards shall be developed by the director in consultation with the appropriate national and state experts in the field of human trafficking.

Sec. 2. NEW SECTION. 710A.1 DEFINITIONS.

As used in this chapter:

1. "Commercial sexual activity" means any sex act on behalf of which anything of value is given, promised to, or received by any person and includes, but is not limited to, prostitution, participation in the production of pornography, and performance in strip clubs.

2. "Debt bondage" means the status or condition of a debtor arising from a pledge of the debtor's personal services or a person under the control of a debtor's personal services as a security for debt if the reasonable value of such services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

3. "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained or maintained through any of the following:

a. Causing or threatening to cause serious physical injury to any person.

b. Physically restraining or threatening to physically restrain another person.

c. Abusing or threatening to abuse the law or legal process.

d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

4. "Human trafficking" means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

a. Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

b. Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

5. "Involuntary servitude" means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint or the threatened abuse of legal process.

6. "Labor" means work of economic or financial value.

7. "Maintain" means, in relation to labor and services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of services.

8. "Obtain" means, in relation to labor or services, to secure performance thereof.

9. "Peonage" means a status or condition of involuntary servitude based upon real or alleged indebtedness.

3 4 10. "Services" means an ongoing relationship between a  
3 5 person and the actor in which the person performs activities  
3 6 under the supervision of or for the benefit of the actor,  
3 7 including commercial sexual activity and sexually explicit  
3 8 performances.

3 9 11. "Sexually explicit performance" means a live or public  
3 10 act or show intended to arouse or satisfy the sexual desires  
3 11 or appeal to the prurient interest of patrons.

3 12 12. "Venture" means any group of two or more persons  
3 13 associated in fact, whether or not a legal entity.

3 14 13. "Victim" means a person subjected to human  
3 15 trafficking.

3 16 Sec. 3. NEW SECTION. 710A.2 HUMAN TRAFFICKING.

3 17 1. A person who knowingly engages in human trafficking is  
3 18 guilty of a class "D" felony, except that if the victim is  
3 19 under the age of eighteen, the person is guilty of a class "C"  
3 20 felony.

3 21 2. A person who knowingly engages in human trafficking by  
3 22 causing or threatening to cause serious physical injury to  
3 23 another person is guilty of a class "C" felony, except that if  
3 24 the victim is under the age of eighteen, the person is guilty  
3 25 of a class "B" felony.

3 26 3. A person who knowingly engages in human trafficking by  
3 27 physically restraining or threatening to physically restrain  
3 28 another person is guilty of a class "D" felony, except that if  
3 29 the victim is under the age of eighteen, the person is guilty  
3 30 of a class "C" felony.

3 31 4. A person who knowingly engages in human trafficking by  
3 32 soliciting services or benefiting from the services of a  
3 33 victim is guilty of a class "D" felony, except that if the  
3 34 victim is under the age of eighteen, the person is guilty of a  
3 35 class "C" felony.

4 1 5. A person who knowingly engages in human trafficking by  
4 2 abusing or threatening to abuse the law or legal process is  
4 3 guilty of a class "D" felony, except that if the victim is  
4 4 under the age of eighteen, the person is guilty of a class "C"  
4 5 felony.

4 6 6. A person who knowingly engages in human trafficking by  
4 7 knowingly destroying, concealing, removing, confiscating, or  
4 8 possessing any actual or purported passport or other  
4 9 immigration document, or any other actual or purported  
4 10 government identification document of a victim is guilty of a  
4 11 class "D" felony, except that if that other person is under  
4 12 the age of eighteen, the person is guilty of a class "C"  
4 13 felony.

4 14 7. A person who benefits financially or by receiving  
4 15 anything of value from knowing participation in human  
4 16 trafficking is guilty of a class "D" felony, except that if  
4 17 the victim is under the age of eighteen, the person is guilty  
4 18 of a class "C" felony.

4 19 Sec. 4. NEW SECTION. 710A.3 AFFIRMATIVE DEFENSE.

4 20 It shall be an affirmative defense, in addition to any  
4 21 other affirmative defenses for which the victim might be  
4 22 eligible, to a prosecution for a criminal violation directly  
4 23 related to the defendant's status as a victim of a crime that  
4 24 is a violation of section 710A.2, that the defendant committed  
4 25 the violation under compulsion by another's threat of serious  
4 26 injury, provided that the defendant reasonably believed that  
4 27 such injury was imminent.

4 28 Sec. 5. NEW SECTION. 710A.4 RESTITUTION.

4 29 The gross income of the defendant or the value of labor or  
4 30 services performed by the victim to the defendant shall be  
4 31 considered when determining the amount of restitution.

4 32 Sec. 6. NEW SECTION. 710A.5 CERTIFICATION.

4 33 A law enforcement agency investigating a crime described in  
4 34 section 710A.2 shall notify the attorney general in writing  
4 35 about the investigation. Upon request of the attorney  
5 1 general, such law enforcement agency shall provide copies of  
5 2 any investigative reports describing the immigration status  
5 3 and cooperation of the victim. The attorney general shall  
5 4 certify in writing to the United States department of justice  
5 5 or other federal agency that an investigation or prosecution  
5 6 under this chapter has begun and that the person who is a  
5 7 likely victim of a crime described in section 710A.2 is  
5 8 willing to cooperate or is cooperating with the investigation  
5 9 to enable the person, if eligible under federal law, to  
5 10 qualify for an appropriate special immigrant visa and to  
5 11 access available federal benefits. Cooperation with law  
5 12 enforcement shall not be required of a minor victim of a crime  
5 13 described in section 710A.2. This certification shall be made  
5 14 available to the victim and the victim's designated legal

5 15 representative.  
5 16 Sec. 7. NEW SECTION. 915.51 GENERAL RIGHTS OF HUMAN  
5 17 TRAFFICKING VICTIMS.  
5 18 Victims of human trafficking, as defined in section 710A.1,  
5 19 shall have the same rights as other victims of a crime,  
5 20 including the right to receive victim compensation pursuant to  
5 21 section 915.84, regardless of their immigration status.

5 22 Sec. 8. Section 915.94, Code 2005, is amended to read as  
5 23 follows:

5 24 915.94 VICTIM COMPENSATION FUND.

5 25 A victim compensation fund is established as a separate  
5 26 fund in the state treasury. Moneys deposited in the fund  
5 27 shall be administered by the department and dedicated to and  
5 28 used for the purposes of section 915.41 and this subchapter.  
5 29 In addition, the department may use moneys from the fund for  
5 30 the purpose of the department's prosecutor-based victim  
5 31 service coordination, including the duties defined in sections  
5 32 910.3 and 910.6 and this chapter, and for the award of funds  
5 33 to programs that provide services and support to victims of  
5 34 domestic abuse or sexual assault as provided in chapter 236,  
5 35 and to victims of section 710A.2. The department may also use

6 1 up to one hundred thousand dollars from the fund to provide  
6 2 training for victim service providers. Notwithstanding  
6 3 section 8.33, any balance in the fund on June 30 of any fiscal  
6 4 year shall not revert to the general fund of the state.

6 5 Sec. 9. HUMAN TRAFFICKING STUDY. The legislative council  
6 6 is requested to authorize a study for the 2006 legislative  
6 7 interim on human trafficking. The study recommendations and  
6 8 findings shall include but are not limited to identifying the  
6 9 needs of human trafficking victims and law enforcement and any  
6 10 other agencies that serve victims of human trafficking. The  
6 11 study report, including findings and recommendations, shall be  
6 12 submitted to the general assembly for consideration during the  
6 13 2007 legislative session. The study shall be conducted by a  
6 14 study committee consisting of up to nine members of the  
6 15 general assembly. A chairperson or co-chairpersons shall be  
6 16 designated by the legislative council.

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JEFFREY M. LAMBERTI  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

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6 28 I hereby certify that this bill originated in the Senate and  
6 29 is known as Senate File 2219, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

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6 35 Approved \_\_\_\_\_, 2006

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7 4 THOMAS J. VILSACK

7 5 Governor